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In re Application of RUDOLPH et al.

Application No.: 10/526,163

PCT No.: PCT/EP03/09694

Int. Filing: 01 September 2003

Priority Date: 30 August 2002

Attorney Docket No.: 22220 US-pd/c

For: METHOD FOR THE SYNTHESIS AND  
SELECTIVE BIOCATALYTIC MODIFICATION  
OF PEPTIDES, PEPTIDE MEMETICS AND  
PROTEINS

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:  
DECISION ON  
:  
PETITION TO REVIVE  
:  
UNDER 37 CFR 1.137(b)

This is a decision on applicant's petition to revive under 37 CFR 1.137(b) filed 15 December 2009 in the above-captioned application.

**BACKGROUND**

On 01 December 2005, a Notification of Missing Requirements was mailed to applicant indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 03 March 2008, a Notification of Defective Response was mailed to applicant indicating that the paper or computer disc copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e). Applicant was advised to provide a substitute paper or compact disc copy of the "Sequence Listing" **as well as an amendment specifically directing its entry into the application** OR a substitute computer readable form (CFR) copy of the "Sequence Listing". These two items must be the same. Applicant must also provide a statement that the content of the sequence listing information recorded in compute readable form is identical to the written (on paper or compact disc) sequence listing and where applicable, includes no new matter, as required by 37 CFR 1.821.

On 14 July 2008, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements within the time period set therein.

### DISCUSSION

Applicant's petition to revive was filed on 15 December 2009 along with a substitute computer readable form (CRF) copy of the "Sequence Listing". Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b). The petition fee was also submitted.

A review of the CFR on 5 January 2010 indicated that it is good technically and entered into the database. However, a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing as required by 37 CFR 1.821(e),(f),(g), and 1.825 (b) & (d) is required and was not provided. The requirements of 37 CFR 1.137(b) have not been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is dismissed as to the National stage in the United States of America.

### CONCLUSION

For the reasons discussed above, the renewed petition to revive under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Any request for reconsideration on the merits of this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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